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FAX TRANSMISSION

DATE May 4, 2005 NO. OF PAGES (INCLUDING COVER SHEET) 9

FROM
Name Charles C. Fowler tel FAX
Orrick, Herrington & Sutcliffe LLP (949) 567-6700 (949) 567-6710

TO
Name United States Patent & Trademark Office Tel Fax
Office of Petitions 703-872-9306

RE United States Patent Application Serial No. 10/776,037
Attorney Dkt. No. 13854.4004

MESSAGE

The attached documents are being sent at the request of John Gillon concerning the above-identified matter.

If you do not receive all pages, please call Angela Wendel at 949-852-7724 as soon as possible.
THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS INTENDED TO BE SENT ONLY TO THE STATED ADDRESSEE OF THE TRANSMISSION. IT MAY BE PROTECTED FROM UNAUTHORIZED USE OR DISSEMINATION BY THE ATTORNEY-CLIENT PRIVILEGE, THE ATTORNEY WORK-PRODUCT DOCTRINE, OR ANY OTHER APPLICABLE PRIVILEGE. IF YOU ARE NOT THE STATED ADDRESSEE, YOUR RECEIPT OF THIS TRANSMISSION WAS UNINTENDED AND INADVERTENT, AND YOU ARE HEREBY NOTIFIED THAT ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. YOU ARE ALSO ASKED TO NOTIFY US IMMEDIATELY BY TELEPHONE AND TO RETURN THE ORIGINAL DOCUMENT TO US IMMEDIATELY BY MAIL AT THE ADDRESS ABOVE. THANK YOU IN ADVANCE FOR YOUR COOPERATION.
DOCSOC1:161238.1

MAY 04 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/776,037 Confirmation No.: 1520
Applicant : Paul G. Yock, et al.
Filing Date : February 9, 2004
Title : Methods and Kits for Locally Administering an Active Agent to an Interstitial Space of a Host
Group Art Unit : 1636
Examiner : not yet assigned
Docket No. : 13854.4004
Customer No. : 34313

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF FACTS IN SUPPORT OF FILING ON
BEHALF OF UNAVAILABLE INVENTORS (37 C.F.R. § 1.47(A))**

Sir,

The patent that is the subject of the present application for reissue includes eight listed inventors. Of these, six have executed the Joint Declaration submitted herewith in response to the Notice to File Missing Parts of Reissue Application. Two of the inventors, Niall Herity and Sidney Lo, could not be found despite the diligent efforts of the Assignee and its counsel. This Declaration is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the Joint Declaration by the unavailable inventors, Niall Herity and Sidney Lo, for the above-identified reissue patent application.

**CERTIFICATE OF MAILING
37 CFR §1.8**

I hereby certify, pursuant to 37 CFR §1.8, that I have reasonable basis to expect that that this paper or fee (along with any referred to as being attached or enclosed) would be mailed or transmitted on or before the date indicated with the United States Postal Service with sufficient postage as first class mail on the date shown below in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Dated: July 14, 2004
Valerie M. Cloyd

DOCSOC1:152687.1

Applicant : William E. Webler, et al.
Appl. No. : 701470.4070
Examiner : not yet assigned
Docket No. : not yet assigned

This Declaration is being made by the available person having first-hand knowledge of the facts recited herein.

IDENTIFICATION OF PERSON MAKING THIS DECLARATION OF FACTS

Name of Declarant: Charles C. Fowler

Address of Declarant: Orrick, Herrington & Sutcliffe LLP, 4 Park Plaza, Suite 1600,
Irvine, California 92614-2558

LAST KNOWN ADDRESS OF THE OMITTED/UNAVAILABLE INVENTOR

Name of omitted/unavailable inventor: Niall Herity

Last known address of omitted/unavailable inventor: 24 Baronscourt Heights, Carryduff
BT8 8RS, Northern Ireland

Name of omitted/unavailable inventor: Sidney Lo

Last known address of omitted/unavailable inventor: 2/29 Marshall Street, Surry Hills
2010, Sydney, Australia

DETAILS OF DILIGENT EFFORT TO SECURE THE SIGNATURE OF THE
UNAVAILABLE INVENTORS

1. Ms. Kari Guy, an employee of Stanford University, the assignee of the present application, confirmed in a letter dated February 17, 2004, that Dr. Niall Herity and Dr. Sidney Lo were not associated with Stanford University. In the letter, Ms. Guy provided the last known addresses listed above, telephone numbers for both Inventors, and an e-mail addresses for Dr. Herity.

2. Between May 18, 2004 and June 15, 2004, I made attempts to contact Dr. Herity by telephone and by e-mail, using the information provided by Ms. Guy. I was

Applicant : William E. Webler, et al.
Appl. No. : 701470.4070
Examiner : not yet assigned
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not able to reach Dr. Herity. During the same time period, I made attempts to contact Dr. Lo by telephone, but was not able to reach Dr. Lo.

3. In mid-June of 2004, Ms. Guy confirmed to me by e-mail that the mailing addresses specified above are Dr. Herity's and Dr. Lo's last addresses known to Stanford University.

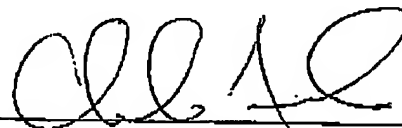
4. Letters were sent to each of Dr. Herity and Dr. Lo at their last known addresses on June 15, 2004. The letters enclosed copies of the reissue patent application, the preliminary amendment, the statement of status / support for changes to claims, and the draft of the joint declaration. The letters requested that Dr. Herity and Dr. Lo contact me by no later than July 2, 2004.

5. I have not been contacted by either of Dr. Herity or Dr. Lo in response to the letters referred to in paragraph 4.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such statements may jeopardize the validity of the application or any patent issued thereon.

Dated: July 14, 2004

By:



Charles Fowler



STANFORD

biodesign

February 17, 2004

James Geriak, Esq.
Orrick, Herrington & Sutcliffe
4 Park Plaza
Irvine, CA 92614

Re: Patent Dkt. 13854.4004

Dear Mr. Geriak,

Enclosed is the original patent document Dkt. 13854.4004 sent to Dr. Paul Yock for signatures. We have collected signatures for all of the Stanford staff. The following parties are not at Stanford, so I was not able to obtain their signatures.

Andy Carter, MD
Northwest HeartCare
9155 S.W. Barnes Road, Suite 204
Portland, OR 97225
503.216.5206

Niall Herity, MD
24 Baronscourt Heights
Carrduff BT8 8RS
Northern Ireland
44.28.90815816
herity@aol.com

Sidney Lo, MD
2/29 Marshall Street
Surry Hills 2010
Sydney, Australia
61.2.9.3606041

Please feel free to call me at the number below if you have any questions.

Regards,

Kari Guy
Administrative Assistant to Dr. Yock

RECEIVED

FEB 18 2004

IRVINE OFFICE



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June 15, 2004

Charles C. Fowler
(949) 567-6700
cfowler@orrick.com

Niall Herity, MD
24 Baronscourt Heights
Carrduff BT8 8RS
Northern Ireland

Re: U.S. Reissue Patent Application No. 10/776,037
For: METHODS AND KITS FOR LOCALLY ADMINISTERING
AN ACTIVE AGENT TO AN INTERSTITIAL SPACE OF A HOST
Our Docket: 13854.4004

Dear Dr. Herity:

We represent Venomatrix, the exclusive licensee from Stanford University ("Stanford") of United States Patent No. 6,346,098 ("the '098 patent"), on which you are a named inventor. We also have power of attorney to represent Stanford for the purpose of prosecuting the '098 patent. Stanford and Venomatrix have determined that the claims of the '098 patent are inadequate to cover the full extent of the inventions described in the patent. In order to correct these errors, we have filed, on behalf of Stanford, an application for reissue of the '098 patent.

Which brings us to the purpose for this letter. In order to prosecute the reissue application, we must submit to the United States Patent and Trademark Office a declaration from all of the '098 patent inventors setting forth the errors that give rise to the reissue application. In this case, this amounts to describing the manner in which the claims are inadequate to cover the full extent of the inventions described in the patent. A copy of this "Joint Declaration" is enclosed. Please review this document and, if it is accurate, sign and date it where indicated and return it to us in the enclosed envelope.

In order to answer some of the questions that you might have, we have enclosed copies of the reissue application papers, including the following:

1. A "Power of Attorney" executed on behalf of Stanford University granting Orrick, Herrington & Sutcliffe LLP the authority to prosecute the reissue application;
2. A copy of the '098 patent;
3. A "Preliminary Amendment" that includes all of the revisions and additions to the '098 patent claims being sought in the reissue application;

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ORRICK

Niall Herity, MD

June 15, 2004

Page 2

4. A "Statement of Status / Support for Changes to Claims" for identifying the portions of the '098 patent specification that support the proposed amendments; and
5. Two copies (one for your records, one to execute and return to us) of a "Joint Declaration" of all of the '098 patent inventors.

Please review the application papers and contact me with any questions. I can be reached by telephone at (949) 852-7770 (direct dial), or by e-mail at ccfowler@orrick.com. If you do not have any questions, please execute the "Joint Declaration" where indicated in the space provided on page 11, and return it to me in the enclosed self-addressed, stamped envelope. In either event, please return the executed declaration by no later than July 2, 2004.

Please contact me if you have any questions.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Charles C. Fowler

CCF/vmc
Enclosures



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June 15, 2004

Charles C. Fowler
(949) 567-6700
cfowler@orrick.com

Sidney Lo, MD
2/29 Marshall Street
Surry Hills 2010
Sydney
Australia

Re: U.S. Reissue Patent Application No. 10/776,037
For: METHODS AND KITS FOR LOCALLY ADMINISTERING
AN ACTIVE AGENT TO AN INTERSTITIAL SPACE OF A HOST
Our Docket: 13854.4004

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13854.4004 C7P



ORRICK

Sidney Lo, MD

June 15, 2004

Page 2

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Please contact me if you have any questions.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Charles C. Fowler

CCF/vmc

Enclosures